

**REMARKS**

Applicant respectfully requests reconsideration of this application. Claims 1-24 are pending. No claims have been canceled or added. Claims 1, 9, 13, and 19 have been amended.

**Rejection of Claims 1, 2, 4, 6, 7, 9, 10, 12-17, and 19-23 Under 35 U.S.C. § 103(a)**

Claims 1, 2, 4, 6, 7, 9, 10, 12-17, and 19-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,433,900B1, of Kuroyanagi et al (“Kuroyanagi”), in view of U.S. Patent No. 6,771,908B2, of Eijk et al (“Eijk”). Applicant respectfully traverses the rejection. Claim 1 as amended sets forth:

maintaining a state of the switch to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.

(Claim 1 as amended; emphasis added)

In contrast, neither Kuroyanagi nor Eijk, alone or in combination, teaches the above limitation. As stated in the Office Action, Kuroyanagi fails to teach the above limitation (Office Action, p. 3). It is respectfully submitted that Eijk also fails to teach the above limitation. According to Eijk, the states disclosed are *cell delineation procedure states* (Eijk, col. 10, ln. 55-col. 12, ln. 58; Figure 6). The states in Eijk are not a “state of the switch” as claimed. Furthermore, Eijk merely discloses that if the BMRs in both the working and protection OSUs are not decoding upstream cells from any of the ONTs, then there could be a failure in the downstream transmissions generated by the working OSU or a failure in the optical splitter; and if the BMRs in both the working and protection OSUs are not decoding upstream cells from the same specific ONT, then there could be a failure at that ONT’s

transmitter or the fiber from that ONT to the splitter could be cut (Eijk, col. 12, ln. 43-53).

Eijk does not teach maintaining a state of the optical switch *to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.*

Since neither Kuroyanagi nor Eijk, alone or in combination, teaches all limitation set forth in claim 1 as amended, claim 1 is patentable over Kuroyanagi in view of Eijk. Withdrawal of the rejection is respectfully requested.

For the reason discussed above with respect to claim 1, claims 9, 13, and 19 are patentable over Kuroyanagi in view of Eijk. Claims 2, 4, 6, 7, 10, 12, 14-17, and 20-23 depend, directly or indirectly, from claims 1, 9, 13, and 19, respectively, and thus, are patentable over Kuroyanagi in view of Eijk. Withdrawal of the rejection is respectfully requested.

### **Rejection of Claims 3 and 11 Under 35 U.S.C. § 103(a)**

Claims 3 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,433,900B1, of Kuroyanagi et al (“Kuroyanagi”), in view of U.S. Patent No. 6,771,908B2, of Eijk et al (“Eijk”), as applied to claims 2 and 10 above, and further in view of U.S. Patent No. 6,898,376B1, of Gerstel et al (“Gerstel”). Applicant respectfully traverses the rejection. Claims 3 and 11 depend from claims 1 and 9, respectively. For the reason discussed above with respect to claims 1 and 9, Kuroyanagi and Eijk, alone or in combination, fail to teach maintaining a state of the optical switch to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed. Furthermore, the other reference, Gerstel, also fails to teach the limitation set forth above. Gerstel merely discloses a processor to receive system

protocols and IDs from a system manager computer and to report back status to the system manager computer (Gerstel, col. 3, ln. 23-45; col. 3, ln. 64 – col. 4, ln. 15). Gerstel does not teach maintaining a state of the optical switch to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.

Since none of Kuroyanagi, Eijk, and Gerstel, alone or in combination, teaches all limitation set forth in claims 3 and 11, claims 3 and 11 are patentable over Kuroyanagi in view of Eijk and Gerstel. Withdrawal of the rejection is respectfully requested.

**Rejection of Claims 5, 8, 18, and 24 Under 35 U.S.C. § 103(a)**

Claims 5, 8, 18, and 24 rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,433,900B1, of Kuroyanagi et al (“Kuroyanagi”), in view of U.S. Patent No. 6,771,908B2, of Eijk et al (“Eijk”), as applied to claims 1 and 9 above, and further in view of U.S. Patent No. 6,556,319B2, of Feinberg et al (“Feinberg”). Applicant respectfully traverses the rejection. Claims 5, 8, 18, and 24 depend from claims 1, 13, and 19, respectively. For the reason discussed above with respect to claim 1, Kuroyanagi and Eijk, alone or in combination, fail to teach maintaining a state of the optical switch to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed. Furthermore, the other reference, Feinberg, also fails to teach the limitation set forth above. According to Feinberg, the optical system has two paths, namely, a service path and a protection path. If a processor determines that a service path is not operating normally, then the processor sends control signals to at least one of the last few line units on the second branch path (protection path), to instruct those line units to increase their power output levels to a normal power output state.

(Feinberg, col. 3, ln. 60-67) Feinberg does not teach maintaining a state of the optical switch to continue outputting the only one of the first and the second outgoing optical signals if both of the first and the second outgoing optical signals have failed.

Since none of Kuroyanagi, Eijk, and Feinberg, alone or in combination, teaches all limitation set forth in claims 5, 8, 18, and 24, claims 5, 8, 18, and 24 are patentable over Kuroyanagi in view of Eijk and Feinberg. Withdrawal of the rejection is respectfully requested.

## CONCLUSION

Applicant respectfully submits that the rejections have been overcome by the remarks and the amendments, and that the application is in condition for allowance.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. If any other petition is necessary for consideration of this paper, it is hereby so petitioned.

If there are any additional charges, please charge Deposit Account No. 02-2666 for any fee deficiency that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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Chui-kiu Teresa Wong  
Attorney for Applicant  
Reg. No. 48,042

1279 Oakmead Parkway  
Sunnyvale, California 94085-4040  
(408) 720-8300